

SUBSTITUTE ORDINANCE NO. BL2025-906

An ordinance amending certain sections and subsections of Chapters 2.62, 12.56, 13.02, 13.08, 13.20, and 13.32 of the Metropolitan Code of Laws to allow the Nashville Department of Transportation and Multimodal Infrastructure (“NDOT”) to increase its permit, license, and administrative fees over time, as necessary.

WHEREAS, NDOT provides many valuable services to the public; and,

WHEREAS, according to a recent comprehensive fee study of NDOT’s current ~~permitting permit, and licensing~~ license, and administrative fees, the fees charged by NDOT for various services are currently below the costs incurred by NDOT for providing such services; and,

WHEREAS, it is in the best interest of the Metropolitan Government to recover the full amount of costs it incurs for the services it provides.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. The Nashville Department of Transportation and Multimodal Infrastructure shall adjust its permit, license, and administrative fees in accordance with its most recent comprehensive fee study.

Section 2. That Subsection 2.62.030.F. of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following language:

F. Payment of Fees. The permit application must be accompanied by payment of both a permit fee and the applicable administrative fee for the cost of processing the application. All fees shall be submitted in the form of checks or money orders payable to the mayor’s office of film and special events. Such fees shall be determined by the Director of the Nashville Department of Transportation and Multimodal Infrastructure, and approved by the Director of Finance, published for public viewing on the metropolitan government’s website, and filed with the metropolitan clerk.

Section 3. That Subsection 2.62.040.F. of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following language:

F. Payment of Fees. The permit application for special events, except for metropolitan events, must be accompanied by payment of both a permit fee and the applicable administrative fee for the cost of processing the application. All fees shall be submitted in the form of checks or money orders payable to the mayor’s office of film and special events. Such fees shall be determined by the Director of the Nashville Department of Transportation and Multimodal Infrastructure, and approved by the Director of Finance, published for public viewing on the metropolitan government’s website, and filed with the metropolitan clerk.

Section 4. That Subsection 2.62.050.D. of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following language:

D. Fees and Deposits. The application for banner placement on utility poles must be accompanied by payment of both a fee for the installation and removal of banners and the applicable administrative fee for the cost of processing the application. All fees shall be submitted in the form of checks or money orders payable to the mayor's office of film and special events. The applicable fees shall be determined by the Director of the Nashville Department of Transportation and Multimodal Infrastructure and approved by the Director of Finance, published for public viewing on the metropolitan government's website, and filed with the metropolitan clerk.

Section 5. That the Metropolitan Code of Laws is amended to add a new Section 2.62.080 as follows:

**2.62.080 – Annual Adjustment of Fees**

The fees set forth in Sections 2.62.030.F., 2.62.040.F., and 2.62.050.D of this chapter, and Section 12.56.170 of chapter 12.56, shall be ~~adjusted~~ incrementally increased from the fees listed as "current fees" in the Nashville Department of Transportation and Multimodal Infrastructure's most recent comprehensive fee study to an amount to be determined by the Director of such department based on that fee study, after the passage of this ordinance, on July 1, 2026, and on July 1, 2027. After July 1, 2027, such fees shall increase and on July 1 of each succeeding year by the greater of (a) a percentage equal to the percentage change in the CPI Urban Index (CPI-U) over the preceding year and or (b) three percent, unless the change in the CPI-U is negative, in which case there shall be no change for that fiscal year. Notice of the annual adjustments to begin on July 1, 2025 after the passage of this ordinance, shall be provided to each member of the metropolitan council and published on the metropolitan government's website at least thirty days before an adjustment goes into effect. The Nashville Department of Transportation and Multimodal Infrastructure shall provide a report regarding performance improvements related to its incremental fee increases to the metropolitan council on an annual basis until December 31, 2028, which date represents the end of the year in which incremental fee adjustments will cease and the CPI adjustments will begin.

Section 6. That Section 12.56.170 of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following language:

The mayor's office of film and special events shall assist the chief of police in facilitating the processing of applications for and in the issuance of the parade permits provided for in this chapter. In connection therewith, with regard to parades being held for a recreational purpose, an administrative fee shall be paid by the

applicant for the cost of facilitating the application. All fees shall be in the form of checks or money orders payable to the mayor's office of film and special events. The applicable fee shall be determined by the Director of the Nashville Department of Transportation and Multimodal Infrastructure, and approved by the Director of Finance, published for public viewing on the metropolitan government's website, and filed with the metropolitan clerk.

Section 7. That the Metropolitan Code of Laws is amended to add a new Section 13.02.020 as follows:

### **13.02.020 – Annual Adjustment of Fees**

All fees required by this Title, except for those set forth in Section 13.02.010 of this chapter, shall be ~~adjusted~~ incrementally increased from the fees listed as “current fees” in the Nashville Department of Transportation and Multimodal Infrastructure’s most recent comprehensive fee study to an amount to be determined by the Director of such department based on that fee study, after the passage of this ordinance, on July 1, 2026, and on July 1, 2027. After July 1, 2027, such fees shall increase and on July 1 of each succeeding year by the greater of (a) a percentage equal to the percentage change in the CPI Urban Index (CPI-U) over the preceding year and or (b) three percent, unless the change in the CPI-U is negative, in which case there shall be no change for that fiscal year. Notice of the annual adjustments to begin on July 1, 2025 after the passage of this ordinance, shall be provided to each member of the metropolitan council and published on the metropolitan government's website at least thirty days before an adjustment goes into effect. The Nashville Department of Transportation and Multimodal Infrastructure shall provide a report regarding performance improvements related to its incremental fee increases to the metropolitan council on an annual basis until December 31, 2028, which date represents the end of the year in which incremental fee adjustments will cease and the CPI adjustments will begin.

Section 8. That Subsection 13.08.010.B. of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following language:

B. The official street and alley acceptance and maintenance record shall be maintained in the office of the Nashville Department of Transportation and Multimodal Infrastructure (NDOT). The director of NDOT is authorized to note thereon any amendatory ordinance enacted by the metropolitan council.

Section 9. That Subsection 13.08.010.C. of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following language:

C. Any person, other than an official or employee of the metropolitan government acting in their official capacity, making an application or request for an amendment to the official street and alley acceptance and maintenance record shall, in addition to filing the appropriate application or request with the Nashville Department of Transportation and Multimodal Infrastructure, pay to a fee to the metropolitan government to cover the cost of processing such application or request.

Section 10. That Subsection 13.08.030.B. of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following language:

B. Any person, firm or entity requesting an encroachment, permit or privilege as provided herein shall pay to the metropolitan government a fee in an amount to be determined by the Director of the Nashville Department of Transportation and Multimodal Infrastructure, and approved by the Director of Finance, published for public viewing on the metropolitan government's website, and filed with the metropolitan clerk.

Section 11. That Subsection 13.08.030.C. of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following language:

C. The manner of constructing, installing, operating and maintaining such encroachment shall be subject to the requirements, direction, and approval of the Director of the Nashville Department of Transportation and Multimodal Infrastructure ("NDOT") and further the person, firm, or entity requesting such encroachment, permit, or privilege shall provide a liability insurance policy in such amount as directed by the metropolitan attorney and in the form as approved by the metropolitan attorney, to save the metropolitan government harmless from all claims for damages that may result to person or property by reason of construction, operation, or maintenance of such installation of any encroachment. Provided, however, that (i) a homeowner association legally constituted under Tennessee Law or (ii) a non-profit community organization exempt from taxation under section 501(3)(c) of the Internal Revenue Code may, without providing such insurance, install or construct an encroaching beautification project or sign if the Director of NDOT has approved and determined in writing that installation of such project or sign is in the public interest and poses no risk of harm to the public.

Section 12. That Subsection 13.20.030.D. of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following language:

D. Excavation Permits.

1. Each separate excavation shall require a permit. Excavated areas of up to five square meters (six square yards) of surface area shall constitute an excavation. Trench excavations running parallel to traffic shall require a permit for each fifty linear feet.
2. The fee for excavation permits shall be established by the Director of the Nashville Department of Transportation and Multimodal Infrastructure ("NDOT" or "public works") and approved by Director of Finance. Different fees may apply within different designated areas, such as right-of-way permit high impact areas. All fees shall be published for public viewing on the metropolitan government website and filed with the metropolitan clerk. Amendments to the fees shall similarly be published and filed. Such fees shall be no higher than necessary to cover the metropolitan government's costs of operating on an annual basis.
3. Any excavation permit requested and issued involving roadway pavement on any roadway that has been newly constructed or resurfaced within the past five years in addition to the other fees provided in this section shall require the payment of a pavement assessment fee. The pavement assessment fee shall be equal to five hundred dollars plus twenty percent of the cost to restore the excavation per existing pavement restoration specifications of NDOT. The cost shall be based on the average cost of similar work performed by metropolitan government in the previous year and shall be updated annually by the Director of NDOT. Each year on or about January 1st, the Director of NDOT shall publish the pavement assessment fee. For the purposes of this section, the phrase "right-of-way permit high impact area" shall mean the area bounded as follows: Beginning at the intersection of I-65 North and Briley Parkway, thence; in an easterly and then in a southerly direction along Briley Parkway, to I-40 east of Nashville. Thence; continuing with Briley Parkway in a southerly then westerly direction, to I-24 south of Nashville. Thence; along Thompson Lane in a westerly direction, to I-65 south of Nashville. Thence; along Woodmont Boulevard in a westerly direction, to

Harding Pike (HWY 70 S). Thence; along White Bridge Road in a northerly direction, to I-40 west of Nashville. Thence; along Briley Parkway in a northerly and then easterly direction to the point of beginning at I-65 north of Nashville.

4. All excavation restoration will be the responsibility of the permittee, shall conform to the specifications of NDOT, and shall be subject to the approval of the Director of NDOT.

Section 13. That Subsection 13.20.030.E. of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following language:

E. Obstruction Permits.

1. Permits shall be issued for temporary obstructions only. Permanent obstructions are prohibited. The fees for obstruction permits shall be established by the Director of Transportation and Multimodal Infrastructure ("NDOT" or "public works") and approved by the Director of Finance. Different fees may apply within different designated areas, such as right-of-way permit high impact areas. All fees shall be published for public viewing on the metropolitan government website and filed with the metropolitan clerk. Amendments to the fees shall similarly be published and filed. Such fees shall be no higher than necessary to cover the metropolitan government's costs of operating on an annual basis.
2. The fee to place a trailer or dumpster in the public right-of-way shall be set by NDOT, as derived from the actual internal operating costs of administering related services, as determined by the department.

Section 14. That Subsection 13.20.030.G. of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following language:

- G. Right-of-Way Temporary Closure Permits and Fees. In addition to any other fees required by this chapter, permits requiring the temporary closure of the metropolitan government's rights-of-way shall be subject to fees set by the Nashville Department of Transportation and Multimodal Infrastructure, as derived from the actual internal operating costs of administering related services, as determined by the department based upon the scale and duration of the closure.

Section 15. That Subsection 13.32.165.C. is deleted in its entirety and replaced with the following language:

C. Any person applying for a permit to operate a sidewalk cafe dining facility shall, in addition to filing the appropriate application as required by NDOT, pay to the metropolitan government a nonrefundable application fee and an annual fee per square foot for right-of-way use, both at rates determined by the Director of NDOT and approved by the Director of Finance. If a renewal of the permit is desired, an application for renewal must be made at least thirty days prior to the expiration of the existing permit and must be accompanied by the applicable non-refundable application fee and the annual right-of-way use fee. All such fees and rates shall be published for public viewing on the metropolitan government website and filed with the metropolitan clerk, and shall be no higher than necessary to cover the metropolitan government's costs of operating on an annual basis.

Section 16. That Subsection 13.32.166.D. is deleted in its entirety and replaced with the following language:

D. Any person making application for a permit to operate a parklet/streatery facility, which are available with one-year terms, shall, in addition to filing the appropriate application required by NDOT, pay to the metropolitan government a nonrefundable application fee to cover the cost of processing such application. With regard to a streatery, the permittee shall also pay an additional annual fee based on the lost revenue from the metered parking spaces occupied by the streatery, or a lower rate, per non-metered parking space occupied thereby, as determined by NDOT and approved by the Director of Finance. If a renewal of the permit is desired, an application for renewal must be made at least thirty days prior to the expiration of the existing permit and must be accompanied by the applicable nonrefundable application fee as well as, if applicable, the annual fee per metered and non-metered spaces occupied by the right-of-way use. All such fees and rates shall be published for public viewing on the metropolitan government website and filed with the metropolitan clerk, and shall be no higher than necessary to cover the metropolitan government's costs of operating on an annual basis.

Section 17. That this Ordinance shall take effect from and after its passage, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

SPONSORED BY:

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Sean Parker  
Member of Council